

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NOS. 89-6-E & 90-7-E - ORDER NO. 90-335

MARCH 28, 1990

IN RE:	Semi-annual Review of Base Rates for)	ORDER DENYING
	Fuel Costs of South Carolina Electric)	PETITION FOR
	and Gas Company)	RECONSIDERATION

Steven W. Hamm, Consumer Advocate for the State of South Carolina petitioned the South Carolina Public Service Commission (the Commission) for reconsideration of its Order No. 90-177, dated February 22, 1990, in the above-captioned matter.

On December 18, 1989, the Consumer Advocate filed with the Commission a Motion to Compel requesting the Commission to order SCE&G to provide copies of SCE&G rail and coal contracts to the Consumer Advocate without requiring the Consumer Advocate to sign a confidentiality agreement. On December 27, 1989, SCE&G filed a Return to that Motion stating the rail and coal contracts were confidential and that they should be protected from disclosure. On January 26, 1990, SCE&G filed a Motion for Protective Order and the Consumer Advocate filed a Response to SCE&G's Motion January 30, 1990. By Order No. 90-177, dated February 22, 1990, the Commission ruled that the contracts were confidential and required the Consumer Advocate and his consultants to sign a confidentiality agreement. The Commission did not require any specific language to be included in the agreement. The Consumer Advocate and SCE&G

attempted to draft a confidentiality agreement which protects the information from disclosure but have reached an impasse with respect to one issue. The Consumer Advocate proposed to protect his right of appeal of the Commission's Order No. 90-177 by incorporating into the agreement two clauses which read:

WHEREAS, The Commission has issued an Order requiring the Consumer Advocate to execute a Confidentiality Agreement, Order No. 90-177, dated February 22, 1990.

* * * *


By signing this Agreement, the Consumer Advocate does not waive any right of appeal of the Commission's Order requiring the execution of a Confidentiality Agreement prior to obtaining certain information and expressly reserves such right of appeal.

SCE&G in its Return to Petition for Reconsideration, dated March 14, 1990, would not agree to include this matter, contending it would render any Agreement unenforceable in light of the absence of any consideration on the Consumer Advocate's part.

The Consumer Advocate requested that this Commission reconsider its Order No. 90-177 with respect to the error set forth and issue an order requiring SCE&G to provide the requested information without signing a confidentiality agreement or, in the alternative, issue an order requiring the parties to sign a confidentiality agreement which expressly reserves the Consumer Advocate's right to appeal the Commission's order requiring the Consumer Advocate to sign a confidentiality agreement.

The Commission finds that the Consumer Advocate's Petition should be denied. The Consumer Advocate has the right to appeal the Commission's Order No. 90-177 requiring the Consumer Advocate to sign a confidentiality agreement without having to preserve that right in the confidentiality agreement. This Order Denying Reconsideration has no bearing on the Consumer Advocate's right to appeal Order No. 90-177.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)